

SENATE JOURNAL

SEVENTY-FIRST LEGISLATURE — SIXTH CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Monday, June 4, 1990)

In obedience to the Proclamation of the Honorable William P. Clements, Jr., Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 4th day of June, 1990, at 2:00 p.m. and was called to order by the Honorable William P. Hobby, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

The roll was called and the following Senators were present: Armbrister, Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Ellis, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Parker, Ratliff, Sims, Tejada, Truan, Uribe, Zaffirini.

Absent-excused: Bivins, Edwards, Glasgow, Lyon, Parmer, Santiesteban, Whitmire.

The President announced a quorum of the Senate present.

The Senate Doorkeeper, Jim Morris, offered the invocation as follows:

Heavenly Father, as this sixth special session of the 71st Legislature convenes, we ask Your special blessing upon these who come again to work, to serve and to resolve. As it begins, let it do so in an atmosphere of commitment and with determination to complete the sensitive and complicated task. May this session be remembered as the one that met the challenge, overcame the obstacles and established reform in the public school system of Texas.

This is our prayer in the name of our Lord. Amen.

LEAVES OF ABSENCE

Senators Santiesteban, Whitmire, Glasgow, Lyon, Edwards, Bivins and Parmer were granted leave of absence for today on account of important business on motion of Senator Brooks.

PROCLAMATION FROM THE GOVERNOR

The following Proclamation from the Governor was read and was filed with the Secretary of the Senate.

41-2380

Under the provisions of Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby call a special session of the 71st Legislature, to be convened in the City of Austin commencing at 2:00 p.m., the 4th day of June, 1990, for the following purposes:

(1) To consider legislation to establish and make suitable provision for the support and maintenance of an efficient system of public free schools;

(2) To consider legislation relating to appropriating money to the Texas Department of Human Services, the Texas Department of Health and the Texas Department of Mental Health and Mental Retardation; and

(3) To consider legislation relating to proposing a constitutional amendment relating to the procedures for filling vacancies in certain state and district offices.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of June, 1990.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

/s/George S. Bayoud, Jr.
George S. Bayoud, Jr.
Secretary of State

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 1 by Brown Health and Human Services
Directing the Texas Water Commission in conjunction with the 1990 Joint Task Force on Waste Management Policy to explore the efficacy of entering into a compact with the states of Oklahoma, New Mexico, Louisiana and Arkansas.

S.B. 1 by Parker, Armbrister, Barrientos, Education
Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Ellis, Green, Haley, Harris, Henderson, Johnson, Leedom, Lyon, McFarland, Montford, Ratliff, Sims, Whitmire, Zaffirini, Hobby
Relating to public education.

S.B. 2 by Haley Education
Relating to the computation and distribution of state educational aid to school districts, to the use of certain bond proceeds for assisting school districts in the acquisition, construction, renovation, and improvement of instructional facilities, making an appropriation, and declaring an emergency.

S.B. 3 by Haley, Zaffirini Education
Relating to aid to school districts for the acquisition, construction, renovation, or improvement of certain instructional facilities or capital assets; making an appropriation.

S.B. 4 by Brooks, Dickson Health and Human Services
Relating to the basis of fees, charges, and rates for medical assistance provided by certain hospitals serving as primary teaching hospitals for certain institutions of higher education.

S.B. 5 by Dickson Education
Relating to courses offered by branch campuses of junior colleges located in certain counties.

S.B. 6 by Dickson Intergovernmental Relations
Relating to the dissolution of the Concho County Water Control and Improvement District No. 1.

S.B. 7 by Dickson Education
Relating to funding of school districts with declining attendance due to the closing or reduction in troops of military bases.

S.B. 8 by Carriker Finance
Relating to an appropriation to the Texas Higher Education Coordinating Board for faculty salaries at nursing programs at institutions of higher education.

S.B. 9 by Carriker Intergovernmental Relations
Relating to the duties of office of the district attorney of the 110th Judicial District.

S.B. 10 by Carriker Finance
Relating to the salary of the executive director of the Texas Department on Aging.

S.B. 11 by Brooks, Caperton Finance
Relating to appropriations for the biennium ending August 31, 1991.

S.B. 12 by Caperton Finance
Relating to debt service on certain state bonds.

S.B. 13 by Dickson, Edwards Finance
Relating to emergency appropriations to the institutional division of the Texas Department of Criminal Justice for projects related to corrections institutions and the Texas Department of Mental Health and Mental Retardation for projects related to mental health and mental retardation facilities and the use of previously appropriated funds for those projects.

S.B. 14 by Barrientos Intergovernmental Relations
Relating to the creation, administration, powers, duties, operation, and financing of the Glen Rose Special Utility District.

S.B. 15 by Barrientos Finance
Relating to exempting from ad valorem taxes property owned or leased by certain cooperative research and development organizations.

S.B. 16 by Barrientos Education
Relating to a student health services building fee at the University of Texas at Austin.

S.B. 17 by Barrientos Criminal Justice
Relating to the imposition of court costs in certain criminal cases for the funding of the crime stoppers assistance account; making an appropriation.

S.B. 18 by Barrientos Intergovernmental Relations
Relating to the creation, administration, powers, duties, operation, and financing of the Williamson-Travis Counties Water Control and Improvement District No. 1.

S.B. 19 by Uribe Education
Relating to public school taxes and finance.

S.B. 20 by Montford State Affairs
Relating to the Department of Information Resources.

S.B. 21 by Glasgow Jurisprudence
Relating to filing fees, other fees, and costs for certain types of lawsuits; making an appropriation to the attorney general.

S.B. 37 by Brown Health and Human Services
 Relating to the amount of a civil penalty that may be assessed by the Texas Water Commission against a person for violating the Solid Waste Disposal Act (Chapter 361, Health and Safety Code).

S.B. 38 by Brown Finance
Relating to exempting from ad valorem taxation certain property of organizations of members or veterans of the armed forces.

S.B. 39 by Ellis Intergovernmental Relations
Relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district; authorizing a tax; and granting the authority to issue bonds.

S.J.R. 1 by Haley Education
Proposing a constitutional amendment providing for the issuance of general obligation bonds for assisting school districts in acquiring, building and renovating school facilities.

S.J.R. 2 by Edwards State Affairs
Proposing a constitutional amendment relating to the procedures for filling vacancies in certain state and district offices.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the House of Representatives that the Senate is organized and ready for business.

BROOKS

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President announced the appointment of the following Committee to Notify the House of Representatives: Senators Armbrister, Carriker, Ellis, Ratliff and Truan.

MOTION IN WRITING

Senator Brooks offered the followed Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the Governor that the Senate is organized and ready for business.

BROOKS

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President announced the appointment of the following Committee to Notify the Governor: Senators Brown, Dickson, Leedom, Tejada and Uribe.

SENATE NOTIFIED

A Committee from the House of Representatives appeared at the Bar of the Senate and Representative Russell for the Committee notified the President and Members of the Senate that the House was organized and ready to transact business.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
June 4, 1990

TO THE SENATE OF THE SEVENTY-FIRST LEGISLATURE,
SIXTH CALLED SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE JUDGE OF THE 149TH JUDICIAL DISTRICT COURT, BRAZORIA COUNTY until the next General Election and until his successor shall be duly elected and qualified: ROBERT E. MAY of Lake Jackson, Brazoria County, will be replacing Judge John Rainey of Angleton, who resigned.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

SENATE RESOLUTION 1
(Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
President of the Senate
Austin, Texas

Sir:

At a caucus held in the office of the Senate attended by 23 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The following officers were elected to serve for the 71st Legislature, 6th Called Session, at the will of the Senate:

Secretary of the Senate - Betty King
Sergeant-at-Arms - Carleton Turner
Doorkeeper - James Morris
Calendar Clerk - Kay Hughes
Enrolling Clerk - Patsy Spaw
Journal Clerk - Margrette Vollers

All officers and employees appointed by this caucus shall hold their office of employment for the duration of the 71st Legislature, 6th Called Session.

It is recommended that the Lieutenant Governor and the Secretary of the Senate each be permitted to name secretarial staff and assistants at salaries designated by the Lieutenant Governor and the Administration Committee respectively. The Parliamentarian, Steve Dial, is to be named by the Lieutenant Governor.

It is further recommended that the Administration Committee appoint a sufficient number of custodians, messengers, elevator operators, porters, and other employees as may be necessary. The Lieutenant Governor is authorized to designate any Member of the Senate or Senate staff to attend official meetings of national governmental organizations during the 71st Legislature, 6th Called Session, while in session. Actual and necessary expenses are hereby authorized as reimbursement for such trips. The Lieutenant Governor is authorized to designate a Member of the Senate to represent the Senate at ceremonies and ceremonial functions during the 71st Legislature, 6th Called Session, while in session. Necessary expenses for

performance of these duties and for necessary staff are hereby authorized to be paid pursuant to a budget approved by the Administration Committee.

It is further recommended that each Senator shall be permitted a maximum payroll of \$16,500.00 per month for secretarial and other office staff and for intrastate travel expenses for staff employees. Any unexpended portion of this amount may be carried forward from month to month until the end of the fiscal year. In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of Members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of Members and committees must use compensatory/overtime within 18 months of the month in which the time was accrued. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination.

The Lieutenant Governor, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that the Lieutenant Governor, each Senator, and the Secretary of the Senate be permitted to subscribe for newspapers as necessary to be paid out of the contingent fund and be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that not to exceed 700 journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 journals shall be furnished the members of the House.

It is further recommended that the Legislative Reference Library be furnished 60 copies of the daily journal.

It is further recommended that all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the 71st Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate.

It is further recommended that no employee of the Senate shall, during the time employed by the Senate, furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and the employee shall not without permission receive any compensation from any person, firm, or corporation during employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, Members of the Senate, Secretary of the Senate, committee, or to the head of a department, shall report for duty at 8 a.m. and 1:00 p.m. each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the chairman of each standing committee shall have authority to employ such additional employees of his own selection as may

be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, and to discharge the duties of said standing committee, subject to the approval of the Administration Committee.

It is further recommended that no employee of the Senate, except one whose official duties require the employee to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, after the performance of which the employee shall immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have privileges of the floor during the session of the Senate shall be permitted on the Senate floor for a period of 30 minutes prior to the time the Senate convenes and 30 minutes after the Senate adjourns. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such 30-minute periods.

Respectfully submitted,

/s/Chet Brooks
Chairman of the Caucus

/s/O. H. Harris
Secretary of the Caucus

The resolution was read and was adopted viva voce vote.

SENATE BILL 6 REREFERRED

On motion of Senator Sims and by unanimous consent, S.B. 6 was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on State Affairs.

SENATE RESOLUTION 3

Senator Ratliff offered the following resolution:

WHEREAS, The Senate of the State of Texas joins with the Texas Parks and Wildlife Department in mourning the death of game warden Bruce Franklin Hill; and

WHEREAS, Born in Texarkana, Arkansas, Mr. Hill attended Texarkana Junior College and East Texas State University after graduating from Texas Senior High School; and

WHEREAS, This esteemed individual began his life's work as a Park Superintendent I at Palmetto State Park in 1969; and

WHEREAS, His talents and abilities were soon recognized as he was selected for positions of increasing responsibility; as a Park Superintendent II, Park Peace Officer, and Park Superintendent III, he discharged his duties in a most exemplary manner; and

WHEREAS, After graduating from the Game Warden Training Academy in Austin on May 21, 1982, Mr. Hill served with great distinction in Panola County, achieving the rank of Game Warden III; and

WHEREAS, Loyal, industrious, and dedicated, Mr. Hill was respected by his supervisors and fellow game wardens; and

WHEREAS, A man of wit, wisdom, and warmth, Mr. Hill will be sorely missed by his family and many friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 6th Called Session, hereby extend sincere condolences to his wife, Gwen, and his daughter, Dawn; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Bruce Franklin Hill.

The resolution was read and was adopted by a rising vote of the Senate.

SENATE RESOLUTION 4

Senator Ratliff offered the following resolution:

WHEREAS, With the untimely death of William Barry Decker, the State of Texas lost one of its most dedicated game wardens; and

WHEREAS, Born July 30, 1946, this distinguished gentleman graduated from Henderson High School before attending Kilgore Junior College and Angelina Junior College; and

WHEREAS, Imbued with a deep love of country, Mr. Decker gallantly served in the United States Army from 1966 until 1969; and

WHEREAS, After attending game warden training school at Texas A&M University from December, 1972, until May, 1973, Mr. Decker was stationed in San Augustine County; he transferred to Panola County on January 1, 1974; and

WHEREAS, Mr. Decker performed his duties admirably and diligently; noted for his hard work and devotion to duty, he was promoted to Game Warden IV on September 1, 1989; and

WHEREAS, His sterling character marked him as one of the Lone Star State's most outstanding citizens, and he leaves behind a legacy of the pursuit of excellence in all endeavors; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 6th Called Session, hereby extend sincere condolences to his son, Brad, and daughter, Shannon, on their grievous loss; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of William Barry Decker.

The resolution was read and was adopted by a rising vote of the Senate.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Finance might consider the following bills at 3:30 p.m. today:

S.B. 11

S.B. 12

S.B. 13

S.B. 25

SENATE RULE 11.11 SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Education might consider the following bills and resolution immediately upon adjournment today:

S.B. 1

S.B. 3

S.B. 5

S.B. 19

S.B. 28

S.J.R. 1

SENATE RULE 11.11 SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider the following bills and resolution at 10:00 a.m. tomorrow:

S.B. 6
S.B. 20
S.B. 23
S.B. 24
S.B. 26
S.J.R. 2

**ELECTION OF PRESIDENT PRO TEMPORE
SEVENTY-FIRST LEGISLATURE, SIXTH CALLED SESSION**

The President announced that the time had arrived for the election of the President Pro Tempore, 6th Called Session, 71st Legislature.

Senator Brooks nominated Senator Bob McFarland of Arlington to serve as President Pro Tempore.

Senator McFarland was once again elected by acclamation and was administered the Oath of Office by the President.

CAPITOL PHYSICIAN

Senator Ellis was recognized and presented Dr. Sam Nixon of Houston as the "Doctor for the Day."

The Senate welcomed Dr. Nixon and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

GOVERNOR NOTIFIED

The Committee to Notify the Governor that the Senate was organized and ready to transact business appeared at the Bar of the Senate, and Senator Brown for the Committee notified the President and the Members of the Senate that the Committee had performed the duty assigned it.

The President discharged the Committee.

HOUSE OF REPRESENTATIVES NOTIFIED

The Committee to Notify the House of Representatives that the Senate was organized and ready to transact business appeared at the Bar of the Senate, and Senator Ellis for the Committee notified the President and the Members of the Senate that the Committee had performed the duty assigned it.

The President discharged the Committee.

CONGRATULATORY RESOLUTIONS

S.R. 2 - By Brown: Joining the Angleton Independent School District in expressing sincere gratitude to Georgia Powell for her exceptional contributions to the district.

S.R. 5 - By Ratliff: Joining the citizens of New Diana in expressing gratitude to Norton Lovell for the outstanding contributions he has made to the education of our youth.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 2:32 p.m. adjourned until 11:00 a.m. tomorrow.

SECOND DAY

(Tuesday, June 5, 1990)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Ellis, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Absent-excused: Glasgow.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Father, we seek Thy presence as this work session begins and pray that the actions of the Senate today will find favor with You. May this be a day of progress, when the minds and energies of the Senate focus on the urgent and unfinished business. Thank You for the individual gifts You have generously provided us and may we use them in ways that today will make life more abundant for others. May we merit all that we have.

This is our prayer and we pray it in the name of Jesus Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate.

**TO THE MEMBERS OF THE SENATE AND THE
HOUSE OF REPRESENTATIVES OF THE
SEVENTY-FIRST TEXAS LEGISLATURE IN SIXTH CALLED SESSION:**

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matters for consideration by the Seventy-first Texas Legislature in its Sixth Called Session:

Legislation relating to the use of a caterer's permit in a marine park and to retail licenses at other certain entertainment facilities.

Legislation relating to amendments to the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).